

REMARKS

Applicant respectfully requests consideration and entry of the above amendments even though presented after a final rejection. Applicant submits that the amendments represent patentable subject matter over the cited prior art, and do not raise new issues or require a new search. Further, consideration and entry of the amendments may place the claims in better condition for appeal, if necessary, by reducing the outstanding issues. The amendments were not presented earlier in the prosecution due to a better understanding of the Examiner's position as reflected in the latest Office Action.

Claims 1, 3-15 and 18-30 stand in this application. Claims 1, 10, 14, 18, 22, 25 and 26 have been amended. Reconsideration and allowance of the standing claims are respectfully requested.

In accordance with the Examiner's statement that "Applicant's arguments are directed towards the disclosure of the instant application and not the claim language as presented," Applicants have amended independent claims 1, 10, 14, 18, 22 and 26 to further clarify that the encoding format claimed is not the broadcast encoding disclosed in Ozkan. Specifically, each of the independent claims has been amended to clarify that the term "encoding format" refers to a content format used to encode the data prior to broadcasting and apart from encoding the broadcast for transmission through a transport medium. This feature is supported throughout the specification including page 4, lines 3-18 and page 6, line 21 through page 7, line 16. Applicant submits that no new matter has been introduced in the amendments. Further, no additional searching should be necessitated by this amendment since the term "content format" has been previously introduced in original claim 2.

Claims 1, 3-7, 9-15, 18-21 and 26-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,172,677 (Stautner) in view of USPN 5,946,052 (Ozkan) and further in view of USPN 6,268,849 (Boyer). Applicant respectfully requests removal of this rejection.

Claims 1, 3-7, 9-15, 18-21 and 26-30 represent patentable subject matter because the cited references fail to teach or suggest all the claim limitations of these claims. For example, claim 1 as amended recites the feature of “sending to a receiver scheduling information that includes a scheduled time and identifies an encoding format, wherein the encoding format comprises a content format used to encode the data prior to broadcasting and apart from encoding the broadcast for transmission through a transport medium.” At least this feature is not shown by any of the cited references.

For at least the above reasons, claim 1 represents patentable subject matter over Stautner, Ozkan, and Boyer, whether alone or taken in combination. Claims 3-7, 9-15, 18-21 and 26-30, each recite features similar to those recited in claim 1, and therefore represent patentable subject matter for at least the same reasons given for claim 1. Removal of the rejection for claims 1, 3-7, 9-15, 18-21 and 26-30 is thus respectfully requested.

Claims 22-25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,659,350 (Hendricks) in view of Ozkan and further in view of Boyer. Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Stautner in view of Ozkan and further in view of Boyer, and further in view of the ATVEF Specification. Claims 8 and 22-25 recite features similar to claim 1, and therefore represent patentable

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subject matter for at least the same reasons given for claim 1. Removal of the rejection for claims 8 and 22-25 is thus also respectfully requested.


For at least the above reasons, Applicant submits that claims 1, 3-15 and 18-30 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

It is believed that claims 1, 3-15 and 18-30 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 02-2666.

Respectfully submitted,
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Under 37 CFR 1.34(a)

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Deborah Higham

6-21-04
Date

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